

217417

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Aqua South Carolina for Approval of
a New Schedule of Rates and Charges for Water and
Sewerage Services Provided to Customers

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 12 - S

(Please type or print)

Submitted by: Scott Elliott

SC Bar Number: 1872

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input checked="" type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input checked="" type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: Proposed	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

ELLIOTT & ELLIOTT, P.A.

ATTORNEYS AT LAW

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SCOTT ELLIOTT

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June 29, 2009

VIA HAND DELIVERY

Charles L. A. Terreni, Esquire
Chief Clerk of the Commission
SC Public Service Commission
P. O. Drawer 11649
Columbia, SC 29211

RE: Application of Aqua South Carolina for Approval of a New
Schedule of Rates and Charges for Water and Sewerage
Services Provided to Customers
Docket No.: 2009-12-S

Dear Mr. Terreni:

Enclosed please find a **Joint Proposed Order Approving Settlement Agreement and Rates & Charges Contained Therein** filed on behalf of Aqua in the above referenced docket. By copy of this letter, I am serving all parties of record.

If you have questions, please feel free to contact me.

Sincerely,

Elliott & Elliott, P.A.


Scott Elliott

SE/jcl

Enclosure

cc: Jeffrey M. Nelson, Esq. w/enc.

RECEIVED
JUL 1 2009
PUBLIC SERVICE
COMMISSION

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-12-S - ORDER NO. 2009- ____

JUNE __, 2009

IN RE:)	
Application of Aqua South Carolina)	JOINT PROPOSED ORDER
for Approval of a New Schedule of)	APPROVING SETTLEMENT
Rates and Charges for Sewerage Services)	AGREEMENT AND RATES AND
Provided to Customers in Spartanburg)	CHARGES CONTAINED THEREIN
County)	

This matter comes before the Public Service Commission of South Carolina (hereinafter the "Commission") on the proposed Settlement Agreement ("Agreement") filed by the Office of Regulatory Staff ("ORS") and Aqua South Carolina ("Aqua" or "the Company") (together "Parties").

This matter was initiated on January 2, 2009, when Aqua filed with this Commission an Application for the adjustment of rates and charges and for modifications to certain terms and conditions for the provision of wastewater service pursuant to S.C. Code Ann. §58-5-240 (Supp. 2008). By its Application, the Company sought an increase in annual wastewater revenues of \$108,838.

By letter dated January 16, 2009 and revised letter dated February 3, 2009, the Commission's Docketing Department instructed Aqua to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by Aqua's Application. The Notice of Filing described the nature of the Application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion as a party of record. In the same letter, the Commission also

instructed Aqua to notify directly, by U. S. Mail, each customer affected by the Application by mailing each customer a copy of the Notice of Filing.

Aqua furnished the Commission with an Affidavit of Publication demonstrating that the Notice of Filing had been duly published in a newspaper of general circulation in the area affected by Aqua's application. The Company also provided the Commission with a letter in which Aqua certified that it had complied with the instruction of the Commission's Docketing Department to mail a copy of the Notice of Filing to all customers affected by the Application.

No Petitions to Intervene were filed in this case in response to the Notice of Filing. Pursuant to S.C. Code Ann. § 58-4-10(B) (Supp. 2008), ORS is a party of record in this proceeding. Further, ORS and Aqua are the only parties of record in the above-captioned docket.

As a result of settlement negotiations between them, the parties have determined that their interests are best served by settling the dispute in this matter under the terms and conditions set forth below. ORS stated in the Agreement that the settlement serves the public interest, preserves the financial integrity of the Company, and promotes economic development within the State of South Carolina. By signing the Settlement Agreement, all counsel acknowledged their respective clients' consent to its terms. The Settlement Agreement provided that the parties viewed the terms of the Agreement to be just and reasonable.

On June 18, 2009, the Commission issued Order No. 2009-405 granting Representative Mike Forrester's request for a local public hearing and ordering Commission Staff to schedule a public hearing in Spartanburg County. The night hearing was held on June 25, 2009 at 6:00 p.m. in Spartanburg, South Carolina at which twelve of Aqua's customers appeared and testified. A public hearing was held before the Commission on May 28, 2009, at the Commission's offices located at

101 Executive Center Drive, Columbia, South Carolina. Aqua was represented by Scott Elliott, Esquire. ORS was represented by Jeffrey M. Nelson, Esquire, and Shealy B. Reibold, Esquire. At this hearing, the parties offered into the record the Settlement Agreement dated May 22, 2009.

The parties asserted before the Commission that the Settlement Agreement provides a schedule of proposed rates, terms, and conditions that are just and reasonable to both the Company and its customers. The Settlement Agreement establishes a flat monthly rate of \$37.00 per unit per month. Aqua agreed to reduce its original requested increase in wastewater revenues of \$108,838 to \$80,784. This reduction is based upon the ORS accounting adjustments and results in an operating margin of 12.25%.

In addition, the Settlement Agreement requires Aqua to file a performance bond with the Commission in the amount of \$140,000 within thirty (30) days of the Commission's order. Moreover, Aqua agrees to request a waiver from the Commission for S.C. Code Ann. Regs. 103-510 and 103-530 which require Aqua to maintain a local office in the State of South Carolina. The Settlement Agreement requires Aqua to ensure that its bill form is in compliance with S.C. Code Ann. Regs. 103-532.1. If changes to the bill form cannot be made by its billing agent, Aqua agrees to request a billing waiver of the requirements of S.C. Code Ann. Regs. 103-532.1.

Two public witnesses testified at the May 28, 2009 hearing. Glenn D. Bridges appeared by telephone and testified, *inter alia*, concerning Aqua's reaction to a sewage spill in December 2008 and objected to the size of the rate increase. Eddrena L. Truly appeared and testified concerning Aqua's reaction to her request to mark its sewer line on her property in advance of her installing security lighting and to the size of the rate increase requested.

Testifying in support of the Settlement Agreement and in response to the public

testimony were Thomas J. Roberts, Aqua's President for South and North Carolina, and Brian P. Devine, Aqua's Rate Analyst. The parties also stipulated to include the direct testimony and exhibits of ORS witnesses Christina L. Seale and M. Elizabeth Ford in the record.

Ms. Ford testified in support of the Settlement Agreement and in response to questions from the Commission and counsel. Ms. Ford testified that Aqua is a NARUC Class C wastewater utility providing sewer service in Spartanburg County. According to Aqua's Application, wastewater services were provided to 406 residential and two (2) commercial customer accounts. Ms. Ford testified that, as part of ORS's Business Office Compliance Review, ORS found Aqua was in compliance with Commission rules and regulations with the exception of failing to include the rate structure or reference to a rate structure in its bill and not maintaining a local office in South Carolina. Ms. Ford further testified that the Department of Health and Environmental Control ("DHEC") did not issue any notice of violation or take enforcement action against Aqua during the test year. Ms. Seale was made available for questions but was not called to the stand by the Commission.

Aqua's witnesses testified fully in support of their rate application and the Settlement Agreement. Aqua's witnesses testified that the proposed rates were just and reasonable. Aqua's witnesses also responded to the concerns raised by the public witnesses. Mr. Roberts testified that the spill testified to by Mr. Bridges was cleaned and treated promptly and in compliance with all environmental procedures and requirements. Subsequent to the hearing Aqua filed and served a statement from Brian P. Devine laying out Aqua's response to Ms. Truly's request that Aqua sewer lines be marked on her property. According to Mr. Devine's statement, admitted as Hearing Exhibit 6, Mr. Devine received an inquiry from Startex Jackson

Wellford Duncan Water District ("SJWD"), Aqua's local billing agent, requesting that Aqua contact Ms. Truly for the purposes of having its sewer lines marked. Mr. Devine received this inquiry on January 6, 2009, and made arrangements with Drain Doctor, Aqua's local plumbing contractor, to provide Ms. Truly with the location of Aqua's lines. Because Ms. Truly was working directly with Duke Energy Carolinas ("Duke") for the installation of a security light on her property, Drain Doctor promptly provided Duke employees with the location of Aqua's sewer lines, thus resolving Ms. Truly's questions.

Aqua witnesses Roberts and Devine both testified that the request for waivers would be forthcoming. Both Aqua and its predecessors have operated the system within South Carolina with offices located in North Carolina. Aqua employs the services of SJWD so as to provide its customers with a local billing office. Aqua also employs the services of Drain Doctor, a local plumbing contractor which is familiar with Aqua's sewer system and has proven to be responsive to Aqua's customer service requests. Aqua continues to work with SJWD to modify the billing form in order to bring it in compliance with the regulations of this Commission.

FINDINGS OF FACT

Based on the Application, the direct and settlement testimony, exhibits received into evidence at the hearing, and the entire record of these proceedings, the Commission makes the following findings of fact:

1. By statute, the Commission is vested with jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the duty, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, observed and followed

by every public utility in this State. S.C. Code Ann. § 58-5-210 (1976)

2. After careful review and consideration by this Commission of the Settlement Agreement, the evidence contained in the record of this case, including the witness testimony, the Commission concludes as a matter of law that the Settlement Agreement results in just and reasonable rates and fees for sewer service agreed to by the Parties. Based on the operating revenues, expenses and income agreed upon by the Parties, the resulting allowable operating margin for the Company is 12.25%. S.C. Code Ann. § 58-5-240(H)(Supp. 2008).

3. The Commission finds that the rates agreed to by the parties in the Settlement Agreement, which is hereby adopted and attached to this Order as Order Exhibit 1, are just and reasonable and that such rates allow Aqua to continue to provide its customers with adequate sewer service. The Settlement Agreement provides a schedule of proposed rates, terms, and conditions that are just and reasonable. Further, the agreed upon rates allow the Company to earn a reasonable return on its investment. We find that the proposed rates contained in the Settlement Agreement, which have been entered into the record of this case without objection and are attached to this Order as Exhibit 2, are just and reasonable and hereby approved.

After review and consideration by this Commission of the Settlement Agreement, the evidence contained in the record of this case, the testimony of the witnesses, and the representations of counsel, the Commission concludes as a matter of law that the Settlement Agreement results in just and reasonable rates and fees for sewer service agreed to by the Parties, and as set forth in the Settlement Agreement attached hereto. Based on the operating revenues, expenses and income agreed upon by

the parties, the resulting allowable operating margin for the Company is 12.25%. See S.C. Code Ann. § 58-5-240(H).

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement, including attachments is attached hereto as Order Exhibit 1 and is incorporated into and made a part of this Order by reference.
2. The Settlement Agreement between the Parties is approved and adopted by this Commission as producing rates that are just and reasonable and in the public interest as well as authorizing a reasonable operating margin for the Company.
3. We approve the schedule of rates and charges and terms and conditions attached hereto as Order Exhibit 2 as both just and reasonable and will allow the Company to continue to provide its customers with adequate sewer service.
4. The schedule of rates and charges attached hereto as Order Exhibit 2 is approved for service rendered on or after August 1, 2009.
5. An operating margin of 12.25% is approved for Aqua.
6. Aqua shall request a waiver from the Commission for S.C. Code Ann. Regs. 103-510 and 103-530 which require Aqua to maintain a local office in the State of South Carolina within 30 days of the date of this order.
7. Aqua shall ensure that its bill form is in compliance with S.C. Code Ann. Regs. 103-532.1. If changes to the bill form cannot be made by its billing agent, Aqua shall request a waiver of the requirements of S.C. Code Ann. Regs. 103-532.1 within 30 days of this order.
8. The Company's books and records shall continue to be maintained according to the NARUC Uniform System of Accounts.

9. Aqua shall file a performance bond in the amount of \$140,000 for sewer services and shall file such bond within 30 days of this Order.
10. Aqua shall implement a pass through mechanism for treatment charges as detailed in Exhibit 2. Aqua shall comply with all notice and timing provisions as detailed in Exhibit 2 prior to being permitted to increase, bill, or collect any or all rates and charges of any sewer rates subject to such pass-through. The Company shall notify this Commission and ORS in writing at least thirty (30) days prior to the implementation of new rates resulting from Aqua's use of the pass-through mechanism or the Company's intent to do so and shall file a revised schedule of rates and charges with this Commission and ORS after the implementation of such rates.
11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Elizabeth B. Fleming, Chairman

ATTEST:

John E. Howard, Vice-Chairman

(SEAL)